UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,065	09/05/2003	David S. Colvin	COL412PUS	2064

36547   7590   08/03/2007
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EXAMINER
REVAK, CHRISTOPHER A

ART UNIT	PAPER NUMBER
2131	

MAIL DATE	DELIVERY MODE
08/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Office Action Summary	Application No. 10/605,065	Applicant(s) COLVIN, DAVID S.
		Examiner Christopher A. Revak	Art Unit 2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 May 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-97</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-97</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>9/5/03</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>see attached PTO form 1449</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed have been fully considered but they are not
persuasive.

It is argued by the applicant that the teachings of Ananda fail to disclose of a
"software identifier that triggers an authentication and selective exchange of
information".

The examiner disagrees with the applicant's assertion, Ananda discloses of
header software which is used to prevent unauthorized usage of the software and
communicates with a rental security manager which makes the determination if the
software is authorized or unauthorized for usage based on a series of tests, or
authentication which are triggered based upon usage, see column 10, lines 4-15. The
identifier of Ananda is an application identifier which is used in the authentication
process of Ananda to determine if the software is authorized for usage based on
comparison, see column 14, lines 35-63 and column 15, lines 21-37.

2.   As per the remaining dependent claims, the Applicant's arguments fail to comply
with 37 CFR 1.111(b) because they amount to a general allegation that the claims
define a patentable invention without specifically pointing out how the language of the
claims patentably distinguishes them from the references.

Terminal Disclaimer

3.   The terminal disclaimer filed disclaiming the terminal portion of any patent

granted on this has been reviewed and is accepted. The terminal disclaimer has been

recorded.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5.   Claims 1-97 are rejected under 35 U.S.C. 102(b) as being anticipated by

Ananda, U.S. Patent 5,495,411.

As per claim 1, it is taught by Ananda of a method for securing software to

reduce unauthorized use of the software and for selectively exchanging information, the

method comprising providing software including data representing digital content;

associating at least one identifier with the software prior to distribution of the software,

the at least one identifier being detectable by a resident authorized representative to

request authentication of the software and selective exchange of information with a

remote authorized representative; and distributing the software with the at least one

identifier to a user (col. 3, lines 11-15 & 21-28; col. 4, lines 18-28; col. 6, lines 57-63;

and col. 10, lines 4-15).

As per claim 2, it is disclosed by Ananda wherein selective exchange of information includes instructions for the resident authorized representative to contact a remote authorized representative at predetermined intervals (col. 4, line 61 through col. 5, line 10).

As per claim 3, Ananda teaches wherein the information is selected from a group consisting of updates, upgrades, patches, marketing information, promotional information, quality assurance information, network monitoring and metering information, and error and usage information (col. 20, lines 53-62).

As per claim 4, Ananda discloses wherein the selective exchange of information includes a transfer of instructions for dynamic authorized representative changes (col. 4, line 61 through col. 5, line 10).

As per claim 5, it is taught by Ananda wherein the exchange of information includes a transfer of instructions for repeating authentication (col. 4, line 61 through col. 5, line 10).

As per claim 6, it is disclosed by Ananda wherein the digital content is selected from the group consisting of data representing music, data representing video, instructions executable by a computer, code for an application program, code for an operating system, code for a game, data representing a movie, data representing graphics, data representing watermarked works, data representing a magazine, and data representing a book (col. 1, lines 17-19).

As per claim 7, Ananda teaches wherein the identifier is hidden from the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 8, Ananda discloses wherein the identifier is tamper resistant to the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 9, it is taught by Ananda wherein the at least one identifier is embedded within a file of at least one component of the software (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 10, it is disclosed by Ananda wherein the at least one identifier is a binary code (col. 6, lines 57-63).

As per claim 11, Ananda teaches wherein the at least one identifier is encrypted (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 12, Ananda discloses wherein the step of distributing the software comprises electronically distributing the software (col. 3, lines 19-32).

As per claim 13, it is taught by Ananda wherein the step of distributing the software comprises distributing the software on a computer readable storage medium (col. 3, lines 57-63 and col. 9, lines 35-36).

As per claim 14, it is disclosed by Ananda of performing a process to determine whether an attempted access to the software is authorized based on detection of the at least one identifier (col. 3, lines 11-15).

As per claim 15, Ananda teaches wherein the step of performing a process comprises determining whether the attempted access to the software is authorized based on registration information associated with the software (col. 3, lines 11-15 & 21-28).

As per claim 16, Ananda discloses wherein the step of performing a process comprises determining whether the attempted access to the software is authorized based on registration information associated with the software and registration information associated with a user device (col. 3, lines 11-15 & 21-28).

As per claim 17, it is taught by Ananda of communicating registration information to an authorized representative of the software; generating at least one authentication code based on the registration information; and associating the authentication code with the software (col. 3, lines 11-15 & 21-28).

As per claim 18, it is disclosed by Ananda wherein authorized representative functions are implemented by a user device (col. 10, lines 4-15 and col. 11, lines 61-65).

As per claim 19, Ananda teaches wherein authorized representative functions are implemented by software (col. 10, lines 4-15 and col. 11, lines 61-65).

As per claim 20, Ananda discloses wherein authorized representative functions are implemented by hardware (col. 10, lines 4-15 and col. 11, lines 61-65).

As per claim 21, it is taught by Ananda wherein authorized representative functions are implemented by hardware and software (col. 10, lines 4-15 and col. 11, lines 61-65).

As per claim 22, it is disclosed by Ananda wherein the at least one identifier is included in a file name for at least one component of the software (col. 6, lines 57-65).

As per claim 23, Ananda teaches wherein the identifier is selected from the group consisting of a filename, a filename prefix, a filename suffix, a filename extension, a filename extension prefix, and a filename extension suffix (col. 6, lines 57-65).

As per claim 24, Ananda discloses wherein the identifier is tamper resistant to the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 25, it is taught by Ananda wherein the identifier is hidden to the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 26, it is disclosed by Ananda of a method for securing software to reduce unauthorized use of the software and to selectively exchange information, the method comprising providing software including data representing digital content; associating a plurality of identifiers with the software prior to distribution of the software, at least one identifier being detectable by a resident authorized representative to request authentication of the software and to request selective exchange of information with a remote authorized representative; and distributing the software with the plurality of identifiers to a user (col. 3, lines 11-15 & 21-28; col. 4, lines 18-28; col. 6, lines 57-63; and col. 10, lines 4-15).

As per claim 27, Ananda teaches wherein at least one of the identifiers is an activation code that must be entered prior to transferring the software (col. 10, lines 4-15).).

As per claim 28, Ananda discloses wherein the identifier that requests selective exchange of information triggers instructions for the resident authorized administrator to contact a remote authorized representative at predetermined intervals (col. 4, line 61 through col. 5, line 10).

As per claim 29, it is taught by Ananda wherein the information is selected from a group consisting of updates, upgrades, patches, marketing information, promotional

information, quality assurance information, network monitoring and metering

information, and error and usage information (col. 20, lines 53-62).

As per claim 30, it is disclosed by Ananda of exchanging information including

instructions for dynamic authorized representative changes after detecting a request for

selective exchange of information (col. 4, line 61 through col. 5, line 10).

As per claim 31, Ananda teaches of exchanging information including instructions

for repeating authentication (col. 4, line 61 through col. 5, line 10).

As per claim 32, Ananda discloses wherein the digital content is selected from

the group consisting of data representing music, data representing video, instructions

executable by a computer, code for an application program, code for an operating

system, code for a game, data representing a movie, data representing graphics, data

representing watermarked works, data representing a magazine, and data representing

a book (col. 1, lines 17-19).

As per claim 33, it is taught by Ananda wherein the at least one identifier is

hidden from the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 34, it is disclosed by Ananda wherein the at least one identifier is

tamper resistant to the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line

8).

As per claim 35, Ananda teaches wherein the at least one identifier is embedded

within a file of at least one component of the software (col. 6, lines 57-65).

As per claim 36, Ananda discloses wherein the at least one identifier is a binary

code (col. 6, lines 57-63).

As per claim 37, it is taught by Ananda wherein the at least one identifier is encrypted (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 38, it is disclosed by Ananda wherein the step of distributing the software comprises electronically distributing the software ()col. 3, lines 57-63 and col. 9, lines 35-36.

As per claim 39, Ananda teaches wherein the step of distributing the software comprises distributing the software on a computer readable storage medium (col. 3, lines 57-63 and col. 9, lines 35-36).

As per claim 40, Ananda discloses of performing a process to determine whether an attempted access to the software is authorized based on detection of the at least one identifier (col. 3, lines 11-15).

As per claim 41, it is taught by Ananda of determining whether the attempted access to the software is authorized based on registration information associated with the software (col. 3, lines 21-29).

As per claim 42, it is disclosed by Ananda wherein the step of performing a process comprises determining whether the attempted access to the software is authorized based on registration information associated with the software and registration information associated with a user device (col. 3, lines 21-29).

As per claim 43, Ananda teaches of communicating registration information to an authorized representative of the software; generating at least one authentication code based on the registration information; and associating the authentication code with the software (col. 11, lines 9-13).

As per claim 44, Ananda discloses wherein authorized representative functions are implemented by a user device (col. 10, lines 4-15 and col. 11, lines 61-65).

As per claim 45, it is taught by Ananda wherein authorized representative functions are implemented by software (col. 10, lines 4-15 and col. 11, lines 61-65).

As per claim 46, it is disclosed by Ananda wherein authorized representative functions are implemented by hardware (col. 10, lines 4-15 and col. 11, lines 61-65).

As per claim 47, Ananda teaches wherein authorized representative functions are implemented by hardware and software (col. 10, lines 4-15 and col. 11, lines 61-65).

As per claim 48, Ananda discloses wherein the at least one identifier is included in a file name for at least one component of the software (col. 6, lines 57-63).

As per claim 49, it is taught by Ananda wherein the identifier is selected from the group consisting of a filename, a filename prefix, a filename suffix, a filename extension, a filename extension prefix, and a filename extension suffix (col. 6, lines 57-63).

As per claim 50, it is disclosed by Ananda wherein the identifier is tamper resistant to the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 51, Ananda teaches wherein the identifier is hidden to the user (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 52, Ananda discloses of detecting at least one identifier corresponding to a request to selectively exchange information; and selectively exchanging information with a remote authorized representative (col. 3, lines 11-15 & 21-28).

As per claim 53, it is taught by Ananda wherein the step of selectively

exchanging comprises transferring information to the resident authorized representative

(col. 3, lines 11-15 & 21-28).

As per claim 54, it is disclosed by Ananda wherein the step of selectively

exchanging comprises exchanging registration information (col. 3, lines 11-15 & 21-28).

As per claim 55, Ananda teaches of a method for digital rights management

including selectively exchanging information between at least one resident authorized

representative entity installed on or in a user device and at least one remote authorized

representative entity, the method comprising associating at least one identifier with the

software to designate the software for protection from unauthorized use; associating at

least one identifier with the software to request selective communication with a remote

authorized representative; detecting the identifiers using an authorized representative

resident on or in the user device; determining whether the user device is authorized to

access the software using the authorized representative entity installed on or in the user

device; controlling access to the software based on whether the user device is

determined to be authorized; and selectively exchanging information with the remote

authorized representative (col. 3, lines 11-15 & 21-28; col. 4, lines 18-28; col. 6, lines

57-63; and col. 10, lines 4-15).

As per claim 56, Ananda discloses wherein the software includes instructions for

the resident authorized administrator to contact the remote authorized representative at

predetermined intervals (col. 4, line 61 through col. 5, line 10).

As per claim 57, it is taught by Ananda wherein the selectively exchanged information is selected from a group consisting of updates, upgrades, patches, marketing information, promotional information, quality assurance information, network monitoring and metering information, and error and usage information (col. 20, lines 53-62).

As per claim 58, it is disclosed by Ananda wherein selectively exchanging information includes exchanging instructions for dynamic authorized representative changes (col. 4, line 61 through col. 5, line 10).

As per claim 59, Ananda teaches wherein selectively exchanging information includes repeating authentication (col. 4, line 61 through col. 5, line 10).

As per claim 60, Ananda discloses of determining whether the user device is authorized to access the software using the remotely located authorized representative entity in combination with the authorized representative entity installed on or in the user device (col. 10, lines 4-15 and col. 11, lines 61-65).

As per claim 61, it is taught by Ananda wherein the authorized representative entity installed on or in the user device comprises a computer chip (col. 6, lines 57-63).

As per claim 62, it is disclosed by Ananda wherein the authorized representative entity installed on or in the user device comprises program instructions executed by a microprocessor (col. 6, lines 57-63).

As per claim 63, Ananda teaches wherein the program instructions comprise an operating system component (col. 6, lines 57-63).

As per claim 64, Ananda discloses wherein the program instructions comprise an application program (col. 6, lines 57-63).

As per claim 65, it is taught by Ananda wherein the program instructions comprise a driver for a secondary device (col. 10, lines 4-15).

As per claim 66, it is disclosed by Ananda wherein the step of determining whether the user device is authorized comprises comparing registration information associated with the user device to registration information associated with the software (col. 3, lines 16-49).

As per claim 67, Ananda teaches wherein the registration information associated with the software is embedded within an authentication code (col. 3, lines 24-28).

As per claim 68, Ananda discloses wherein the registration information associated with the software is encrypted (col. 11, line 61 through col. 12, line 14).

As per claim 69, it is taught by Ananda wherein the registration information includes hardware information (col. 3, lines 11-15).

As per claim 70, it is disclosed by Ananda wherein the registration information includes hardware information associated with a unique user device (col. 3, lines 11-15).

As per claim 71, Ananda teaches wherein the hardware information includes a serial number (col. 8, lines 18-23).

As per claim 72, Ananda discloses wherein the registration information includes hardware information associated with a group of user devices (col. 3, lines 11-15).

As per claim 73, it is taught by Ananda wherein the resident authorized representative entity is installed by a manufacturer of the user device (col. 9, lines 35-36).

As per claim 74, it is disclosed by Ananda wherein the resident authorized representative entity is installed from a computer readable storage medium (col. 6, lines 57-63 and col. 9, lines 35-36).

As per claim 75, Ananda teaches wherein the resident authorized representative entity is installed from the software (col. 9, lines 35-36).

As per claim 76, Ananda discloses wherein the resident authorized representative entity is downloaded to the user device (col. 9, lines 35-36).

As per claim 77, it is taught by Ananda wherein the authorized representative entity is transferred to the user device from a network (col. 9, lines 35-36).

As per claim 78, it is disclosed by Ananda wherein the step of controlling access comprises preventing the software from being transferred to a second user device (col. 10, lines 4-15).

As per claim 79, Ananda teaches wherein the step of controlling access comprises preventing the software from being transferred to a user device if at least one authorized representative is not functional (col. 10, lines 8-15).

As per claim 80, Ananda discloses wherein the step of controlling access comprises preventing the software from being installed on a user device if at least one authorized representative is not present (col. 10, lines 8-15).

As per claim 81, it is taught by Ananda wherein the step of controlling access comprises preventing the software from being executed by the user device (col. 10, lines 8-15).

As per claim 82, it is disclosed by Ananda wherein the step of controlling access comprises providing limited access to the software (col. 10, lines 8-15).

As per claim 83, Ananda teaches wherein the software comprises digital content (col. 1, lines 17-19).

As per claim 84, Ananda discloses wherein the software is selected from the group consisting of data representing music, data representing video, instructions executable by a computer, code for an application program, code for an operating system, code for a game, data representing a movie, data representing graphics, data representing watermarked works, data representing a magazine, and data representing a book (col. 1, lines 17-19).

As per claim 85, it is taught by Ananda wherein the software comprises instructions for generating at least one authentication code based on registration information associated with the user device (col. 3, lines 11-15 & 21-28).

As per claim 86, it is disclosed by Ananda wherein the software comprises instructions for encrypting the authentication code (col. 9, lines 25-34 and col. 10, line 63 through col. 11, line 8).

As per claim 87, Ananda teaches of a method for securing software to reduce unauthorized use of the software, the method comprising: providing software including data representing digital content; detecting an identifier associated with the software

indicating that protection from unauthorized use is desired; detecting an identifier

associated with the software indicating that selective exchange of information is

requested; communicating with an authorized representative entity to determine

whether a user device attempting to access the software is authorized to access the

software; and controlling access to the software based on whether the user device is

authorized (col. 3, lines 11-15 & 21-28; col. 4, lines 18-28; col. 6, lines 57-63; and col.

10, lines 4-15).

As per claim 88, Ananda discloses wherein the identifier associated with the

software is contained within a filename for the software (col. 6,lines 57-65).

As per claim 89, it is taught by Ananda wherein the authorized representative

entity is a hardware device (col. 10, lines 4-15 and col. 11, lines 61-65).

As per claim 90, it is disclosed by Ananda wherein the step of communicating

with the authorized representative entity comprises communicating with at least one

software module associated with the user device (col. 3, lines 11-15 & 21-28).

As per claim 91, Ananda teaches wherein the authorized representative entity is

installed on the user device (col. 6, lines 57-63).

As per claim 92, Ananda discloses of generating an authentication code based

on registration information associated with the user device; and associating the

authentication code with the software (col. 3, lines 11-15 & 21-28).

As per claim 93, it is taught by Ananda wherein the step of communicating

comprises generating an authentication code based on registration information

associated with the user device; and comparing the authentication code with a

previously generated authentication code associated with the software to determine if

the user device is authorized (col. 3, lines 11-15 & 21-28).

As per claim 94, it is disclosed by Ananda wherein the step of comparing the

authentication code comprises determining if at least a portion of system information

associated with the user device matches system information encoded within the

authentication code associated with the software (col. 3, lines 11-15 & 21-28).

As per claim 95, Ananda teaches wherein the registration information includes

hardware-specific information (col. 3, lines 11-15 and col. 9, lines 5-6).

As per claim 96, Ananda discloses wherein the authorized representative entity is

installed on or in the user device (col. 6, lines 57-63).

As per claim 97, it is taught by Ananda wherein the digital content is selected

from the group consisting of data representing music, data representing video,

instructions executable by a computer, code for an application program, code for an

operating system, code for a game, data representing a movie, data representing

graphics, data representing watermarked works, data representing a magazine, and

data representing a book (col. 1, lines 17-19).

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Christopher A. Revak whose telephone number is 571-

272-3794. The examiner can normally be reached on Monday-Friday, 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CR
August 1, 2007

CHRISTOPHER REVAK
PRIMARY EXAMINER